

MEMORANDUM

To: Interested Parties

From: Sharon A. Kennedy, HPC Chair

Date: November 16, 2015

Re: DRAFT revisions to City Code Chapter 21.56 and 21.62

Attached please find the proposed revisions to the Chapter 21.56 (also known as the "Historic Preservation Code") and 21.62 of the City Code. Please note that the document is still in draft form. The proposed revisions contained herein are the results of numerous conversations that commenced in April 2015 and I am grateful and appreciative of all those individuals that provided commentary and thoughtful feedback. Below is an Executive Summary of portions of the attached 38-page document. This summary focuses on the implementation of the major goals and objectives that were identified at the outset of the process.

Background: The base regulations that currently govern the Historic Preservation Commission (HPC) were drafted and enacted into law in 1996. There have been some modifications since that time, including legislation related to property sales and newsracks. However, a comprehensive review of the Historic Preservation Code for alignment with state and federal law and regulations, as well as case law, has not been conducted in the recent past and there are important practices that have developed over the last 20 years that need to be included within the framework of the City Code.

Goals and Objectives:

1. *User Friendliness and Clarity:* The community of stewards who safeguard the architectural heritage of the City that the HPC seeks to preserve (i.e. the property owners) have requested improvements in the clarity of the City Code. Specifically, a more detailed analysis and compilation of exactly what types and kinds of work on their properties require a Certificate of Approval (COA). To respond to this concern the proposed changes in the City Code do the following:
 - a. Clearly articulates, as required in State enabling legislation, that "Routine Maintenance" does not require a COA.
 - b. Clearly excludes "Repair" work as defined in Chapter 21.56 from requiring a COA.
 - c. Clearly includes "Alteration" as work that requires a COA and makes no changes to the definition, which is taken directly from State law.
 - d. Adopts language from the model ordinance provided by the Maryland Historical Trust that commits the HPC to "Identify categories of changes that are so minimal in nature that they do not affect historic,

archeological, or architectural significance and require no review by the HPC”.

One example of the continuum of actions undertaken by a property owner utilizing the revised code might be as follows:

- Property Owner performs routine maintenance by cleaning out gutters (no COA necessary)
- Property Owner notices some rotting wood in the cornice that is making the gutter unstable
- Property Owner removes the gutter and repairs the cornice by cutting out rotten wood and inserting epoxy or replacing sections with new wood with the exact same dimensions and detailing (no COA required as long as the replacement in kind costs less than \$250 and impacts less than 50 square feet)
- As the gutter is being reattached to the repaired cornice, the entire cornice falls off the house. The property owner now needs to replace the entire cornice. If the property owner wishes to replace the cornice with an exact duplicate of the old cornice (material and shape) then an administrative COA is required. If the property owner wishes to change material or shape, then a public hearing and a regular COA is required.

2. *User Access to Administrative Review:* For the past 20 years, the HPC has implemented a strategy of allowing an Administrative COA to enable property owners to execute certain types of work in an expeditious manner. This practice is encouraged by the Maryland Historical Trust and used by many municipalities throughout the state with historic district commissions. The guidelines for the type of work that can receive an Administrative COA is posted on the City website. Currently close to 90% of the approvals granted by the HPC are covered by this process, which reduces time and expense for property owners while maintaining necessary oversight and consistency within the Historic District. The proposed revisions to the City Code explicitly grant this power to the HPC to ensure that the process is protected from challenge in the future.
3. *Landmark Status:* The current Code allows for a process to landmark resources throughout the City. However, the process is somewhat undefined. The proposed changes would implement a two-tier process. First, any proposal to establish a new district or modify an existing district would require an ordinance approved by the City Council. This was the manner in which the current Colonial Annapolis Landmark District was established. Second, a property owner wishing to nominate his/her resource for landmark protection would also require City Council action but in the form of a resolution. The standards utilized to analyze such a landmark designation would be somewhat less stringent than a district designation to ensure that

protection might be achieved as requested of the property owner. One example of this type of designation that the community has been requesting is the Parole Health Center on Drew Street in Ward Three. The HPC would have oversight only after the specific landmark was designated via City Council resolution. As part of the revised process, new/updated definitions are included drawing from federal and state law. Updated definitions include “cultural” and “landmark” while new definitions are provided for “building” and “object”.

4. *Enforcement of the Code and Demolition by Neglect:* The community as a whole has repeatedly raised the issue of how to deal with the few property owners who do not act as good stewards of their resources and therefore have a negative impact on adjacent property owners and the value of their properties. The proposed changes related to enforcement and the pursuit of owners who allow demolition by neglect on their properties would strengthen the process as follows:
 - a. Create the ability of the Chief of Historic Preservation to directly intervene as early as possible when deterioration becomes evident and work with property owners to prevent demolition by neglect.
 - b. Reinforce the ability of the HPC to determine when demolition by neglect is occurring and ensure that all legal remedies available to the City are instituted to correct the situation to the benefit of the surrounding property owners and community.
 - c. Conform the appeals process for property owners determined to have allowed demolition by neglect on their property to parallel all other HPC decisions.
5. *Updates to Newsrack Code:* Over five years ago, in response to community complaints regarding clutter on the sidewalks from abandoned and unmaintained newsracks, legislation was passed to attempt to resolve the situation. Subsequent legal review revealed substantial deficiencies in the approved code and changes are proposed by the Office of Law to improve enforceability and survive challenges in court.
6. *Language Alignment:* Updating the language used within the City ordinance to more closely mirror either state or federal standards and current best uses within the preservation profession.

Embedded in the chart tracking all of the current and proposed language are red numbers in the comments section that indicate if a revision addresses one or more of these major objectives.

I look forward to feedback on these proposals on December 8th at the regularly scheduled meeting of the Historic Preservation Commission.